

2017 PROPOSAL TERMS AND CONDITIONS

Effective February 21, 2017

2017 PROPOSAL TERMS AND CONDITIONS (the “**Terms and Conditions**”), dated as of the Effective Date above, between Crawford Tree & Landscape Services, Inc., a Wisconsin Corporation (“**CTL**”), and the person or entity accepting these Terms and Conditions (“**you**”, “**your**” or “**Client**”).

WHEREAS, CTL has agreed to perform services on behalf of Client and Client has agreed to retain the services of CTL with respect to the services listed in the attached proposal for services (the “**Proposal**”) per the further terms and conditions set forth in this agreement.

Accordingly, the parties agree as follows:

A. Services to be Performed

1. **Services Listed in Proposal.** The Proposal, together with any attached notes, shall define the services to be performed (the “**Work**”) and the materials to be provided (the “**Materials**”).
2. **Incorporation Into Proposal.** These Terms and Conditions are hereby incorporated by reference into the Proposal, and together with the Proposal represent the complete agreement between the parties (the “**Agreement**”).
3. **Acceptance and Execution.** The Client shall indicate acceptance of the Agreement by signing the Proposal. This Agreement shall be considered executed on the date the Client signs the Proposal.
4. **Withdrawal If Not Accepted.** CTL reserves the right to withdraw the Proposal if not accepted by the Client within 30 days of delivery to the Client.
5. **Time and Material.** Work performed on a time and material basis includes the contracted amount per man hour of labor along with any Materials supplied by CTL for use on Client's property. This includes the travel to and from the Work site, time spent preparing in the morning for the Work, and debris disposal.
6. **Partial Services.** If partial services are requested by the Client, CTL reserves the right to adjust the prices listed in the Proposal to reflect increased mobilization costs.
7. **Additional Work.** Any additional Work must be contracted separately, either as a new Proposal or as a written amendment to an existing Agreement. The Client cannot request additional Work from CTL crew directly. Client shall contact a CTL sales associate to arrange for any additional Work.
8. **Change Orders.** Any modification or change to the Proposal is an amendment to this Agreement, and any such modification or change may only be authorized in writing by the Client.
9. **Clean-Up.** All areas effected by Work performed on the property will be cleaned up to include raking and blowing off the turf, hard surfaces, and hauling away any related debris, unless otherwise noted on the Proposal.
10. **Concealed Contingencies.** Any additional Work or equipment required by CTL to complete the Proposal caused by (a) the Client's failure to make a condition known, (b) previously unknown circumstances, or (c) any other condition not apparent in estimating the Work specified, shall be paid for by the Client on a time and material basis.
11. **Additional Terms for Plant Health Care and Tree Care Proposals.** The following terms only apply to Proposals that include Plant Health Care and Tree Care services:
 - a. **Examination Of Trees.** Only trees specifically mentioned in the above quote were reviewed by CTL. Examinations were made from the ground and were solely visual inspections unless otherwise noted.
 - b. **Stump Removal/Grinding.** Stumps will be ground to a depth of 4-6" below grade unless another specification is provided in the Proposal. The hole created will be backfilled with the debris generated from grinding, raked into a mound, unless otherwise stated in the Proposal. Grindings from stump removal are not hauled unless specified in this Proposal. Surface and subsurface roots beyond the stump are not removed unless specified in this Proposal. Restoration of the area including topdressing, seeding, or replacement planting, is available at an additional cost.
 - c. **Debris Removal & Clean-up.** All Work-related debris will be cleaned up each day before the Work crew leaves the site, unless otherwise coordinated by the Client and crew leader. The Work area shall be raked, hard surfaces will be cleaned off, and all brush, branches, and logs will be removed from the site. When clean-up is completed, some small twigs and excess sawdust may remain.
 - d. **We Energies Assistance.** If CTL determines that We Energies must in some way assist in performing tree Work safely, then the Work will be scheduled with We Energies subject to their availability. This participation by We Energies is required by tree care industry safety policies (ANSI Z133.1), OSHA and for insurance coverage. CTL will make all necessary preparations with We Energies in order to attempt a seamless outcome. However, CTL does not take responsibility for any aspect of We Energies' participation in the Work from scheduling to completion. CTL cannot be responsible for cancellations, postponements, power restorations or any aspect of We Energies' involvement, but CTL will commit to working with the Client and We Energies' until there is resolution.
 - e. **ANSI A300 Tree Care Standard Definitions.** The following definitions apply to specifications detailed in this Agreement:

- (i) **Clean.** Selective pruning to remove one or more of the following parts: dead, diseased, and/or broken branches. Unless noted otherwise on this Proposal, all cleaning will be of branches 2 inch diameter or greater throughout the entire crown.
- (ii) **Crown.** The leaves and branches of a tree measured from the lowest branch on the trunk to the top of the tree.
- (iii) **Leader.** A dominant or co-dominant, upright stem.
- (iv) **Raise.** Selective pruning to provide vertical clearance.
- (v) **Reduce.** Selective pruning to decrease height and/or spread by removing specified branches.
- (vi) **Restore.** Selective pruning to improve the structure, form, and appearance of trees that have been severely headed, vandalized, or damaged.
- (vii) **Thin.** Selective pruning to reduce density of live branches, usually by removing entire branches.
- (viii) **Vista pruning.** Selective pruning to allow a specific view, usually by creating view "windows" through the tree's crown.

B. CTL's Responsibilities

1. **Scheduling.** Work scheduling is dependent on weather, type of Work to be performed, geographic relationship to other scheduled Work, and other unforeseen issues. For the different types of Proposals, specific terms for Work scheduling are as follows:
 - a. **One-Time Proposals (except Plant Health Care).** Work crews will arrive at the Work site with notice the day before via phone call or email whenever possible. CTL will do its best to meet all scheduled Work dates, but shall not be liable for damages due to delays or missed Work. If times are given they are approximate, and CTL will not be held responsible for being late or early. In the event that all aspects of the Work are not completed during the initial scheduled date, CTL will give the Client as much notice as possible in arranging the completion. CTL cannot always have all contracted Work completed in a single day, due to a multitude of factors. If this is a problem, the Client must notify CTL in advance; this requirement may delay the Work being performed and scheduled. However, nothing in nature is guaranteed, and factors outside our control may affect completion.
 - b. **One-Time Plant Health Care.** Work crews will arrive on site with NO NOTICE unless otherwise specified on your seasonal Proposal in writing. If times are given they are approximate, and CTL will not be held responsible for being late or early
 - c. **Seasonal Proposals.** Work crews will arrive on site with NO NOTICE unless otherwise specified on your seasonal Proposal in writing. If times are given they are approximate, and CTL will not be held responsible for being late or early.

C. Client's Responsibilities

1. **Accessibility of Work Site.** The Client shall make the Work site accessible to CTL on the days when Work is to be performed under the Proposal. If the Work site is inaccessible to the crews of CTL and associated sub-contractors because of parked vehicles or other obstructions, the Client will be billed the contracted amount per man hour spent preparing for the service, addressing the issue on site, and travelling to/from the Work site.
2. **Removal of Personal Property.** The Client shall remove any personal property, including but not limited to vehicles, furniture, and yard ornaments, from the Work site in advance.
3. **Property Lines.** Client shall clearly indicate the location of all property lines and corners for CTL employees.
4. **Underground Utilities.** CTL notifies Digger's Hotline to mark underground utilities including water, gas, electric, and cable if needed. Client shall mark any other lines for sprinkler lines, dog fence, septic systems, or other electric wires. CTL IS NOT RESPONSIBLE FOR DAMAGE TO LINES THAT ARE NOT MARKED.

D. Payment

1. **Terms of Payment.** Unless otherwise noted in this Proposal, payment is due upon receipt of the invoice. Failure to remit full payment within the payment term may result in a finance charge of 1.5% per month and/or a suspension of services.
2. **Deposit.** A 30% deposit is required for scheduling unless otherwise noted.
3. **Credit Card Service Fee.** Payments made via credit card will be subject to a 3% service fee.
4. **Returned Checks.** Client agrees to pay all fees incurred by CTL for checks returned for insufficient funds or any other reason.
5. **Collection Costs.** If any payment obligation under this Agreement is not paid when due, the Client promises to pay all costs of collection, including reasonable attorney fees, whether or not a lawsuit is commenced as part of the collection process.

E. Termination

1. **Full or Partial Termination by Client.** The Client may cancel the Work to be performed under the Proposal, in full or in part, if the Client provides at least 48 hours advance notice. If a crew has been dispatched to the Work site, the Client will be billed the contracted amount per man hour spent preparing for the service, addressing the issue on site, and travelling to/from the Work site.

2. **Termination for Cause.** If either party breaches any provision of this Agreement and if such breach is not cured within thirty (30) days after receiving written notice from the other party specifying such breach in reasonable detail, the non-breaching party shall have the right to terminate this Agreement by giving written notice thereof to the party in breach, which termination shall go into effect immediately on receipt.
3. **Termination on Insolvency.** Either party has the right to terminate this Agreement where the other party becomes insolvent, fails to pay its bills when due, makes an assignment for the benefit of creditors, goes out of business, or ceases production.

F. **Publicity and Promotion**

1. **Publicity Release.** Client grants to CTL and its parents, subsidiaries, legal representatives, affiliates, and assigns, permission to copyright, use, reuse, publish and republish photographs, pictures, prints, video and/or sound recordings of Work performed on Client's property for the purpose of CTL's marketing and publicity activities.
2. **No Client Approval.** Client waives any right that Client may have to inspect or approve the finished product in the advertising copy or other materials that may be used in conjunction with CTL's marketing or publicity activities.

G. **CTL's Representations and Warranties**

CTL represents and warrants to the Client as follows:

1. **Insurance.** CTL will maintain insurance in commercially reasonable amounts calculated to protect itself from any and all claims of any kind or nature for damage to property or personal injury, including death, made by anyone, that may arise from activities performed or facilitated by this contract, whether these activities are performed by that company, its employees, agents, or anyone directly or indirectly engaged or employed by that party or its agents. Certificates of coverage are available upon request. This must be requested at least 1 week prior to when Work will be performed.
2. **Pesticide Licensing.** CTL warrants that it is licensed for the application of pesticides in Wisconsin and that all technicians performing Work on site are appropriately trained and licensed.
3. **Planting warranty.** CTL guarantees that all plant materials shall be delivered and installed in a healthy condition, being 100% free of any form of pest infestations or fungi/bacterial infections. CTL will replace one time, any tree, bush, or shrub (excluding perennials and annuals) supplied and planted by CTL within 12 months of the day of planting; however, CTL is not liable to replace those trees, bushes, or shrubs damaged by rodents, insects, mechanical damage, negligence of owner, drought, flooding, not enough or too much watering, frost cracking, lightning, improper fertilization, wind, natural disaster, or acts of God. There is no warranty however unless the bill is entirely paid when due, and there is no right of warranty replacement unless access to site of planting still exists. Replacement is the exclusive remedy and there shall be no cash refunds or cash adjustments. Replacement is limited to stock available to CTL from nurseries at time of claim. Warranty is not assignable or transferrable.

H. **Client's Representations and Warranties**

Client represents and warranties to CTL as follows:

1. **Tree Ownership.** Client warrants that all trees listed in the Proposal are located on Client's property, and, if not, that the Client has received full permission from the tree(s) owner to allow CTL to perform the specified Work. Should any tree be mistakenly identified as to ownership, the Client shall indemnify CTL for any damages or costs incurred from the result thereof.

I. **Limitations and Disclaimers**

1. **General Disclaimer.** CTL may attempt to tell the Client when Work done may not be aesthetically pleasing and CTL may tell the Client when the Work they request is unhealthy, but if Client chooses to accept the Proposal and the Work is done as specified then the Client is responsible for the visual, physical, and monetary outcomes.
2. **Tree Risk.** When prominent risk conditions in trees are observed and identified by CTL and the Client approves a Proposal to proceed with the Work CTL has recommended, CTL will make a reasonable effort to proceed with the Work promptly. CTL does not assume any liability for any accident, damage or injury that may occur on the ground or on any other object or structure prior to the Work beginning.
3. **Lawn Repair.** CTL will attempt to minimize all disturbances to the Client's lawn. Lawn repairs are not included in the Proposal price.
4. **Driveway Damage.** CTL will make every attempt to minimize damage that may occur from operating heavy equipment and trucks on driveways, but will not be held responsible for repairs in the unlikely event that they become necessary.
5. **Working With Living Things.** Trees and other plant life are living, changing organisms affected by factors beyond CTL's control. There is no guarantee on tree, plant or general landscape safety, and neither health nor condition is expressed or implied in this contract unless specifically stated in writing.
6. **No Guarantee of Treatment.** CTL cannot guarantee that any treatment will be effective or prevent insect or fungus damage. If CTL recommends treatment, it is because CTL believes that the tree/shrub/turf is a worthy candidate for treatment at that time.
7. **Force Majeure.** Neither party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, or other similar causes beyond its control and without the fault or negligence of the delayed or non-performing party. The affected party will notify the other party in writing within ten (10) days after the beginning of any such cause that would affect its performance. Notwithstanding, if a party's performance is delayed for a period exceeding thirty (30)

days from the date the other party receives notice under this paragraph, the non-affected party will have the right, without any liability to the other party, to terminate this Agreement.

8. **Limit of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR ANY THIRD PARTY IN CONTRACT, TORT OR OTHERWISE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, PUNITIVE OR ECONOMIC DAMAGES OR LOST PROFITS, REGARDLESS OF WHETHER EITHER PARTY SHALL BE ADVISED, SHALL HAVE OTHER REASON TO KNOW OR IN FACT SHALL KNOW OF THE POSSIBILITY.

J. Miscellaneous

1. **Notice.**

- a. Any notice permitted or required to be delivered by a party under this Agreement must be (i) in writing; (ii) delivered to the other party at its address listed below, or to such other address as the other party designates in writing in accordance with this Agreement; and (iii) sent by certified or registered mail, fax, or courier. Any notice so delivered is effective upon receipt.

If to CTL:

Crawford Tree & Landscape Service, Inc.
8760 W Calumet Rd
Milwaukee, WI 53224-3424
Fax: (414) 354-5521

If to Client:

To Client's last known address listed on the Proposal

- b. If a party gives the other party a notice on a day that is not a Business Day or after 5:00 pm on a Business Day, it is deemed received at 9:00 am on the next Business Day.
- c. If a party rejects a notice, or the notice cannot otherwise be delivered in accordance with this Agreement, then the notice is deemed received upon its rejection or the inability to deliver it.
2. **Successors and Assigns.** This Agreement binds and benefits the parties to this Agreement and their respective permitted successors and assigns.
3. **Severability.** If any provision of this Agreement is illegal or unenforceable, that provision is severed from this Agreement and the other provisions remain in effect.
4. **Amendments.** This Agreement may be amended only by a written agreement signed by the parties.
5. **Merger.** This Agreement reflects the parties' final and exclusive agreement as to the matters addressed in this Agreement, and supersedes all prior and contemporaneous negotiations and agreements between the parties as to such matters.
6. **Waiver.** Neither a party's failure to insist on the other party's strict performance of any obligation under this Agreement, nor course of conduct under this Agreement, constitutes a waiver of the other party's breach of that or any other obligation.
7. **Compliance With Laws.** Each party shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that party and shall obtain any permits or licenses necessary for its operations. Neither party shall take any action in violation of any applicable legal requirement that could result in liability being imposed on the other party.
8. **Relationship of the Parties.** The relationship of the parties under this Agreement is that of an independent contractor and the client hiring the contractor. In all matters relating to this Agreement each party hereto shall be solely responsible for the acts of its employees and agents, and employees or agents of one party shall not be considered employees or agents of the other party. Except as otherwise provided herein, no party shall have any right, power, or authority to create any obligation, express or implied, on behalf of any other party. Nothing in this Agreement is intended to create or constitute a joint venture, partnership, agency, trust, or other association of any kind between the parties or persons referred to herein.
9. **Counterpart Execution and Facsimile/PDF Signatures.** The parties may execute this Agreement in one or more counterparts, each of which is an original, and all of which together constitute only one agreement between the parties. Signature pages may be transmitted by facsimile or by email with the signature page attached as a PDF document. Upon delivery via either of these methods, a signature shall be deemed an original and shall be admissible in evidence.
10. **Governing Law.** The Laws of Wisconsin (without regard to conflict of Laws) govern all matters arising under or relating to this Agreement. All disputes arising under or relating to this Agreement are to be decided by the courts located in Milwaukee County, Wisconsin.
11. **Attorney's Fees and Costs.** In any suit or arbitration regarding the Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.